

1 JAMES M. WAGSTAFFE (95535)
2 HOLLY HOGAN (238714)
KERR & WAGSTAFFE LLP
3 100 Spear Street, Suite 1800
4 San Francisco, CA 94105-1528
Telephone: (415) 371-8500
Fax: (415) 371-0500

6 Attorneys for Defendant
VICTOR CONTE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

10 SHANE D. MOSLEY, SR.,

Case No. C 08-01777 JSW

Plaintiff.

vs.

VICTOR CONTE,

Defendant.

**DECLARATION OF JAMES M.
WAGSTAFFE IN SUPPORT OF
DEFENDANT'S MOTION TO STRIKE
COMPLAINT PURSUANT TO
CALIFORNIA'S ANTI-SLAPP
STATUTE [C.C.P. §425.16]
STRATEGIC LAWSUIT AGAINST
PUBLIC PARTICIPATION ("SLAPP")**

Hearing Date: August 22, 2008
Time: 9:00 a.m.
Courtroom: 2

HON. JEFFREY S. WHITE

DECLARATION OF JAMES M. WAGSTAFFE

I, James M. Wagstaffe, hereby declare:

1. I am an attorney licensed to practice before all courts in the State of California, and am a partner of the law firm of Kerr & Wagstaffe LLP, attorneys of record for Defendant Victor Conte (“Conte”) in this action. I have personal knowledge of the facts stated herein, and, if called as a witness, could and would competently testify to them under oath.

1. Attached hereto as **Exhibit A** is a true and correct copy of an article entitled "Shane Mosley admits to using BALCO steroids" published on September 29, 2007 on the New York Daily News website, <http://www.nydailynews.com>.

2. Attached hereto as **Exhibit B** is a true and correct copy of an article entitled "BALCO-related claim casts doubt on De La Hoya bout" published on September 28, 2007 on Sports Illustrated's website <http://www.si.com>

3. Attached hereto as **Exhibit C** is a true and correct copy of an article entitled "Sports and Drugs" published on December 12, 2003 on the San Francisco Chronicle's Website <http://www.sfgate.com>.

4. Attached hereto as **Exhibit D** is a true and correct copy of the first page of search results on www.google.com for “Shane Mosley Drug Use.”

5. Attached hereto as **Exhibit E** is a true and correct copy of Plaintiff's initial disclosures in the above-captioned matter.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
May 30, 2008 at San Francisco, California.

s/ James M. Wagstaffe
JAMES M. WAGSTAFFE

EXHIBIT A

Shane Mosley admits to using BALCO steroids

BY TIM SMITH

DAILY NEWS SPORTS WRITER

Saturday, September 29th 2007, 2:14 AM

Shane Mosley said last night that he inadvertently took two designer steroids — "the cream" and "the clear" — before his championship fight against Oscar De La Hoya in 2003 after he was misled by BALCO founder Victor Conte about what he was actually taking.

"We were misled (by Conte)," Mosley told the Daily News. "I guess I got the clear and the cream."

Conte disputed that in an e-mail response to The News. "I've never misled or deceived any athlete," Conte wrote in the e-mail. "I've always been a man of full disclosure."

According to a report on SI.com yesterday, Mosley used the two types of designer steroids and EPO two months before his junior middleweight championship fight against De La Hoya in 2003.

Mosley said that his strength and conditioning coach at the time, Darryl Hudson, took a list of the substances Mosley believed he was using to the Nevada State Athletic Commission before his fight with De La Hoya and was told none of them were on the banned list.

Mosley said he didn't want to take any kind of drug or workout aids.

"To be honest with you, I told them I was already in great shape," he said, adding that he met Conte one time and gave him a check for \$1500. "I didn't want to take anything. I didn't need anything. He (Conte) assured me it should be on the up and up. He assured me I'd never have a dirty test."

The SI.com report cited several unidentified sources who attended an international anti-doping conference in Colorado Springs last November where the government investigator in the BALCO case, Jeff Novitzky, said that Mosley began using the substances.

Mosley said he became aware that he might have used steroids after Conte was indicted "and I saw this guy on television."

Mosley said Hudson tried to reach Conte but that he would not return calls. "I saw this guy one time," said Mosley.

Mosley was subpoenaed in the BALCO investigation and testified before a federal grand jury in 2003. He has always denied using steroids and has never tested positive.

Mosley won a 12-round unanimous decision against De La Hoya in Las Vegas on Sept. 13, 2003. Oddly, Mosley is now working as head of boxer development at Golden Boy Promotions, De La Hoya's company. Mosley said then that he contacted the Nevada Boxing Commission about what he had been taking and they told him that nothing he was using was on its list of banned substances.

Mosley, 35, is currently training in Big Bear, Calif., getting ready to fight Miguel Cotto for the WBA welterweight championship at Madison Square Garden on Nov. 10. Ron Scott Stevens, the chairman of the New York State Athletic Commission, could not be reached for comment on whether the allegation that Mosley used designer steroids and EPO — a substance that increases the volume of red blood cells and the oxygen carrying capacity in the blood — would have an impact on his being licensed in New York for the fight against Cotto.

According to the SI.com report, evidence seized during a raid of BALCO showed that Mosley had blood work done measuring his hematocrit levels — the volume of red blood cells. There was also a calendar in Mosley's file with July 26 circled accompanied by the word "start" and the letter "e" by Aug. 8 and it noted that his levels had increased from 44 at the start to 52.2 (an abnormally high level) on Aug. 8, according to the report. In his statement Mosley does not address the issue of whether he took EPO.

Mosley said he recalled taking two blood tests "to see if I was low on iron or calcium."

"I know in my heart that I'm a clean guy and a good guy," he said, "and I think all the fighters, promoters and even the boxing writers know what type of person I am, what type of fighter I am, and I don't need that type of edge. My record speaks for itself in this matter, I've always been a clean fighter, and I have nothing to hide. That one little hiccup should never have happened, and it won't happen again."

EXHIBIT B


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Mosley accused of doping

BALCO-related claim casts doubt on De La Hoya bout

Posted: Friday September 28, 2007 11:32AM; Updated: Friday September 28, 2007 8:46PM

By Luis Fernando Llosa and L. Jon Wertheim/SI.com

According to multiple sources who attended an international anti-doping conference in Colorado Springs last November, **Jeff Novitzky**, a lead investigator in the BALCO case, alleged that boxer **Shane Mosley** started an elaborate doping regimen in the months prior to a Sept. 13, 2003, fight against **Oscar de la Hoya**.

As Novitzky explained in painstaking detail, two months before the light middleweight championship fight, Mosley, a client of the BALCO lab, began using "the clear" [THG] and "the cream" [testosterone], the designer substances that **Barry Bonds**, among other athletes, stands accused of using. Novitzky said that Mosley supplemented this with doses of the blood-doping drug Erythropoietin (EPO), a hormone that artificially increases red blood cell production.

"I'm disappointed that this is coming out again, four years after I've been to the Grand Jury and gave my truthful testimony," Mosley said in a release issued by his publicist. "I even took a lie detector test back then to let everyone know that I wasn't trying to be an unfair fighter."

Mosley's alleged prescribed regimen bore striking similarities to that of former world champion sprinter **Michelle Collins**, who was implicated in the BALCO investigation and was served with a four-year suspension, despite never having tested positive for a performance-enhancing drug.

Evidence seized during the BALCO raids, which was presented at the November conference, indicates that on July 26, 2003, results of blood work Mosley had done established that his hematocrit level -- a test measuring the volume of red blood cells -- was 44. On a calendar that accompanied Mosley's file, the date 7/26 was circled and accompanied by the word "start" and the letter "e," which investigators believe represents EPO. By Aug. 8, Mosley's hematocrit level had soared to 52.2. "Most men are in the low 40s," says anti-doping expert **Dr. Gary Wadler**. "Anything over 50 is considered off the charts." That level, Wadler says, is dangerously high but could benefit an athlete's stamina. According to the calendar, Mosley's last dose of EPO was administered on Sept. 8, five days before the fight.

Blood doping -- i.e. the attempt to boost red blood cells, thereby increasing the capacity to carry oxygen to muscles -- has run rampant in cycling and distance running for years, and it's not surprising that it may be spreading to other sports that rely upon lung capacity as well as muscle strength.

Indeed, against De La Hoya, Mosley won a unanimous decision, largely because of his strong finish to the 12-round fight at the



Jeff Novitzky (of BALCO investigation fame) alleged that boxer Shane Mosley started an elaborate doping regimen prior to a Sept. 2003 fight.

Ethan Miller/ Getty Images

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MGM Grand in Las Vegas. As SI boxing writer **Richard Hoffer** wrote at the time, "[Mosley] did curry favor with the judges by landing the harder punches, beginning in the ninth round and culminating in a vicious 12th that had De La Hoya nearly dead on his feet, his mouth gaping horribly."

Mosley was subpoenaed in the BALCO investigation and testified to law enforcement officials in the fall of 2003, though he has denied ever taking banned substances and has never tested positive for performance-enhancing drugs, including EPO. Wadler asserts that there is an accurate urine test for EPO, but the Nevada State Athletic Commission does not administer it.

Keith Kizer, executive director of the commission, claims that "about five years ago there were discussions about EPO... but it seemed like something that probably wasn't going to be used by boxers." Kizer says that, faced with so-called "non-analytical" evidence of a boxer taking an EPO regimen leading up to a fight, the commission would consider disciplinary action and possibly deny the athlete a request for a future license.

Adding an ironic twist to this saga, barely a year after Mosley defeated De La Hoya, the two became business partners. In Mosley's upcoming WBC welterweight title fight on Nov. 10 against **Miguel Cotto**, he will be represented by De La Hoya's company, Golden Boy Promotions.

Find this article at:

<http://sportsillustrated.cnn.com/2007/more/09/28/mosley/index.html>

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EXHIBIT C

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SPORTS AND DRUGS

Star-studded day for the grand jury Giambi brothers, 2 Raiders appear before court

John Crumpacker, Mark Fainaru-Wada, Chronicle Staff Writers
Friday, December 12, 2003

[More...](#)

Raiders linebacker Bill Romanowski, considered one of the most important witnesses in the ongoing federal probe of nutritional supplement guru Victor Conte, testified Thursday in what may have been the last session of witness testimony.

The marathon day of testimony began when another Raider, Pro Bowl center Barret Robbins, entered the grand jury room at 8:58 a.m. and ended at 6:40 p.m. when boxing champion Shane Mosley walked out of the room smiling but without comment.

In between, the grand jury heard testimony from baseball's Giambi brothers, Jason and Jeremy, free-agent outfielder Gary Sheffield and two other athletes, a man and a woman, whose identities could not be immediately confirmed.

The length of the session, nearly 10 hours, seemed to indicate that the grand jury is finished hearing testimony, at least for the year and perhaps for good.

More than 25 athletes from track and field, pro football, major-league baseball, boxing, swimming and cycling appeared before the grand jury over the course of seven weeks as federal agents mounted an investigation into the business practices of Conte, whose lab was raided on Sept. 3. Investigators reportedly discovered vials indicating they contained steroids and human growth hormone.

Romanowski, 37, is considered important to the investigation being headed by the Internal Revenue Service because of his association with Conte -- including introducing other athletes and coaches to the services provided by Conte's Bay Area Laboratory Co-Operative in Burlingame -- and the fact he tested positive last month for the designer steroid THG.

The U.S. Anti-Doping Agency said Conte's lab is the source of THG, previously unknown to testing officials.

"I don't have any comments, but it went fine," a relaxed-looking Romanowski said after spending 2 hours, 20 minutes in the grand jury room.

Asked directly if he had used THG or any other steroid, he fell silent.

Romanowski is one of a number of athletes in pro football and track and field to test positive for THG. Others include Raiders teammates Robbins and defensive tackles Dana Stubblefield and Chris Cooper.

U.S. track and field athletes who have reportedly tested positive for THG include middle distance runner Regina Jacobs of Oakland, shot putter Kevin Toth and hammer thrower John McEwen. In addition, British sprinter Dwain Chambers, a Conte client, came up positive for THG.

While Mosley, the WBC and WBA super welterweight champion, said nothing after he left the courtroom, his lawyer indicated the boxer was not involved in the BALCO scandal.

"Who says he's caught up in anything?" Judd Burstein said. "He's a witness because the government wanted some information from him and he was happy to provide it."

Mosley is known to have visited BALCO at least once and purchased legitimate nutritional supplements.

Yankees first baseman Jason Giambi, the former Oakland Athletic, smiled as he left the courtroom but said little other than to talk about the free-agent loss of pitcher Andy Pettitte to the Houston Astros. His connection to BALCO apparently stems from his participation, along with Giants star Barry Bonds, on a Major League Baseball tour of Japan in the winter of 2002.

"It went good," Giambi said of his testimony. "I really can't talk about it."

His younger brother, Jeremy, also a former Athletic, had nothing to say as he left with Jason and their attorneys.

The Giambi brothers are the second set of siblings to appear before the grand jury. Identical twins Alvin and Calvin Harrison, 400-meter runners from Salinas, testified earlier.

Sheffield, a free agent considering an offer from the Yankees, is connected to the BALCO scandal through his friendship with Bonds, who testified last week. Sheffield spent time training with Bonds in the winter of 2002.

The past few months have been a difficult time for Romanowski. The linebacker is dealing with concussions that recently ended his streak of consecutive games played at 243 and might lead to his retirement. He also faces a lawsuit filed by former teammate Marcus Williams, who Romanowski punched in the face during a preseason fight.

Romanowski was Conte's first significant inroad into working with elite professional athletes. The football player was steered toward Conte and BALCO by personal trainer Randy Huntington in the summer of 1996.

Romanowski's ties to Conte also apparently demonstrate a link between BALCO and illegal performance-enhancing drugs that dates back to 1999. During a 1999 interview with Colorado authorities investigating the Romanowskis in a prescription drug fraud case, Bill's wife, Julie, said her husband received human growth hormone from Conte and BALCO and injected it into his knee.

One of Conte's lawyers, Troy Ellerman, has said BALCO never supplied HGH to Romanowski. Ellerman said Julie Romanowski misspoke and meant to say ZMA.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/12/12/SPGE33LS511.DTL>

This article appeared on page **C - 1** of the San Francisco Chronicle

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EXHIBIT D

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Shane Mosley Drug Use

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Personalized Results 1 - 10 of about 80,000 for **Shane Mosley Drug Use**. (0.30 seconds)

Victor Conte: Shane Mosley Knew He Was Using Steroids - FanHouse ...

Apr 9, 2008 ... When the news broke that **Shane Mosley** was using steroids during ... her **drug use** and it's no easier to believe out of **Mosley's** mouth. ...
sports.aol.com/fanhouse/2008/04/09/victor-conte-shane-mosley-knew-he-was-using-steroids/ - 53k - [Cached](#) - [Similar pages](#) - [Note this](#)

SignOnSanDiego.com > Sports -- Zab Judah asks **Shane Mosley to ...**

Now, in a sign of the times, the pre-fight buzz includes an additional element: A call for **drug** testing. Zab Judah wants Sugar **Shane Mosley** to agree to ...
www.signonsandiego.com/sports/20080325-1254-box-mosley-judah.html - 33k -
[Cached](#) - [Similar pages](#) - [Note this](#)

Shane Mosley - RSSMicro Search

Shane Mosley sues BALCO founder over comments about steroid **use** ... finally admitting her **drug use** and it's no easier to believe out of **Mosley's** mouth. ...
www.rssmicro.com/search/Shane-Mosley - 24k - [Cached](#) - [Similar pages](#) - [Note this](#)

Shane Mosley admits to using BALCO steroids

Shane Mosley told the Daily News tonight he inadvertently took two designer ... **Mosley** said he didn't want to take any kind of **drug** or workout aids. ...
www.nydailynews.com/sports/more_sports/2007/09/28/2007-09-28_shane_mosley_admits_to_using_balco_stero.html - 82k -
[Cached](#) - [Similar pages](#) - [Note this](#)

Ring TALK

Los Angeles, CA- Ex-BALCO Labs client **Shane Mosley** reportedly admitted he took ... It is a **drug** class. And even if it were a true name, would you expect a ...
www.ringtalk.com/index.php?action=fullnews&showcomments=1&id=1856 - 31k -
[Cached](#) - [Similar pages](#) - [Note this](#)

sugar shane mosley news

It would be easy for "Sugar" **Shane Mosley** to be a content man. But **Mosley** will not be content until he climbs back to ... long term effects of **drug** abuse ...
vru.soapasagift.michaelgavriel.com/sugar_shane_mosley_news.html -
[Similar pages](#) - [Note this](#)

Welterweight rematch - Newsmakers - Sugar **Shane Mosley and Vernon ...**

Caption: Famed boxers Sugar **Shane Mosley** (3rd, l) and Vernon Forrest (2nd, r) announce their upcoming WBC Welterweight Championship Rematch at a recent ...
findarticles.com/p/articles/mi_m1355/is_2_102/ai_88582485 - 31k -
[Cached](#) - [Similar pages](#) - [Note this](#)

Sugar **Shane Mosley And Steroids**

27.09.07 - By Matthew Hurley: Long held suspicions as to Sugar **Shane Mosley's** use of steroids has once again arisen. In an article published by Sports ...
www.eastsideboxing.com/news.php?p=12605&more=1 - 18k -
[Cached](#) - [Similar pages](#) - [Note this](#)

EXHIBIT E

1 Kim O. Dincel, Esq. (SBN 131563)
 2 Long & Levit LLP
 3 465 California Street 5th Floor
 4 San Francisco, California 94104
 5 Tel (415) 397-2222 Fax (415) 397-6392
 6 E-mail kdincel@longlevit.com

7 JUDD BURSTEIN, P.C.
 8 Judd Burstein, Esq. (admitted *pro hac vice*)
 9 Jeremy M. Attie, Esq. (admitted *pro hac vice*)
 10 1790 Broadway, Suite 1501
 11 New York, New York 10019
 12 Tel (212) 974-2400 Fax (212) 974-2944
 13 E-mail jburstein@burlaw.com
 14 E-mail jattie@burlaw.com

15 *Attorneys for Plaintiff,*
 16 SHANE D. MOSLEY, SR.

17 UNITED STATES DISTRICT COURT
 18 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 19 SAN FRANCISCO DIVISION

20 SHANE D. MOSLEY, SR.,) Case No. 08-Civ-1777 (JSW)
 21 Plaintiff,)
 22 vs.) **PLAINTIFF'S INITIAL DISCLOSURES**
 23 VICTOR CONTE,) **PURSUANT TO FED. R. CIV. P. 26(a)(1)**
 24 Defendant.)

25
 26 PLEASE TAKE NOTICE that Plaintiff SHANE D. MOSLEY, SR. ("Mosley" or
 27 "Plaintiff"), as and for his initial disclosure pursuant to Fed. R. Civ. P. 26(a), provides as follows:

28 **WITNESSES:** With a full reservation of rights to identify additional witnesses going
 29 forward, as well as to amplify the responses given, and without waiving any privileges that may
 30 apply to information or documents in the possession, custody, or control of the following individuals,

31
 32 **PLAINTIFF'S INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)**

1 Plaintiff identifies the following witnesses who he may use to support his claims in the trial of the
2 above-captioned matter, and who may have discoverable information as set forth below:

3 1. Mosley, c/o Judd Burstein, P.C., 1790 Broadway, Suite 1501, New York, New York
4 10019, Tel. 212-974-2400, may have discoverable information concerning, *inter alia*, Defendant
5 Victor Conte's ("Defendant" or "Conte") actionable conduct as alleged in Plaintiff's Complaint (the
6 "Complaint"), and the damages that Plaintiff suffered as a result of Defendant's aforesaid conduct;

7 2. Jin Mosley, c/o Judd Burstein, P.C., 1790 Broadway, Suite 1501, New York, New
8 York 10019, Tel. 212-974-2400, may have discoverable information concerning, *inter alia*, Conte's
9 actionable conduct as alleged in the Complaint, and the damages that Plaintiff suffered as a result
10 of Defendant's aforesaid conduct;

11 3. Jack Mosley, c/o Judd Burstein, P.C., 1790 Broadway, Suite 1501, New York, New
12 York 10019, Tel. 212-974-2400, may have discoverable information concerning, *inter alia*, Conte's
13 actionable conduct as alleged in the Complaint, and the damages that Plaintiff suffered as a result
14 of Defendant's aforesaid conduct;

15 4. John David Jackson, California, Tel. (714) 614-8503 and (714) 535-5818, may have
16 discoverable information concerning, *inter alia*, Conte's actionable conduct as alleged in the
17 Complaint, and the damages that Plaintiff suffered as a result of Defendant's aforesaid conduct;

18 5. Defendant, c/o Kerr & Wagstaffe LLP, 100 Spear Street, Suite 1800, San Francisco,
19 California 94105, Tel. (415) 371-8500, may have discoverable information concerning, *inter alia*,
20 his actionable conduct respective to the Plaintiff as alleged in the Complaint;

21 6. Derryl Hudson a/k/a Darryl Hudson ("Hudson"), 2416 Merrywood Street, Pomona,
22 California 91767-2522, Telephone number unknown, may have discoverable information
23 concerning, *inter alia*, Conte's actionable conduct as alleged in the Complaint and the relationship
24 between Conte, Power N Speed, Mosley, Hudson, and the Bay Area Laboratory Co-operative
25 ("BALCO");

26
27 PLAINTIFF'S INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)
28

1 7. A person with knowledge, pursuant to Fed.R.Civ.P. 30 (b)(6), at Skyhorse Publishing,
2 Inc., 555 Eighth Avenue, Suite 903, New York, N.Y. 10018, Tel. (212) 643-6816, may have
3 discoverable information concerning, *inter alia*, Conte's actionable conduct as alleged in the
4 Complaint and Conte's proposed new book titled, upon information and belief, "BALCO: The
5 Straight dope on Steroids, Barry Bonds, Marion Jones and What We Can Do To Save Sports";

6 8. Nathan Jendrick c/o Skyhorse Publishing, Inc., 555 Eighth Avenue, Suite 903, New
7 York, NY 10018, Tel. (212) 643-6816, may have discoverable information concerning, *inter alia*,
8 Conte's actionable conduct as alleged in the Complaint and Conte's proposed new book titled, upon
9 information and belief, "BALCO: The Straight dope on Steroids, Barry Bonds, Marion Jones and
10 What We Can Do To Save Sports";

11 9. Bob Nightengale c/o *USA Today*, 7950 Jones Branch Drive, McLean, VA
12 22108-0605, will be called to give testimony concerning, *inter alia*, the Defendant's statements
13 published to him as alleged in the Complaint and as set forth in the accompanying articles titled after
14 BALCO, Conte still in the supplement game;"

15 10. A.J. Perez, c/o *USA Today*, 7950 Jones Branch Drive, McLean, VA 22108-0605, will
16 be called to give testimony concerning, *inter alia*, the Defendant's statements published to him as
17 alleged in the Complaint;

18 11. James Valente may have discoverable information concerning, *inter alia*, Defendant's
19 actionable conduct as alleged in the Complaint. This information may include, but is not limited to,
20 the relationship between Conte, Power N Speed, Mosley, and BALCO, including, but not limited
21 to, Mosley's alleged knowledge of, and consent to the use of Performance Enhancing Drugs;

22 12. Luis Fernando Llosa, of SI.com, will be called to give testimony concerning, *inter*
23 *alio*, Conte's statements published to him as alleged in the Complaint and the accompanying article
24 titled "BALCO-related claim casts doubt on De la Hoya bout";

25
26
27 PLAINTIFF'S INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)
28

13. L. Jon Wertheim, of SI.com, will be called to give testimony concerning, *inter alia*, Conte's statements published to him as alleged in the Complaint and the accompanying article titled "BALCO-related claim casts doubt on De la Hoya bout";

14. Teri Thompson, c/o *The New York Daily News*, 450 W 33rd Street, Fl. 3, New York, New York 10001, Tel. (212) 210-2100, will be called to give testimony concerning, *inter alia*, the Defendant's statements published to him as alleged in the Complaint and as set forth in the accompanying articles titled "In face of athletes' denials, Victor Conte points to calendars," and "BALCO founder Victor Conte has tell-all book ready";

15. Nathaniel Vinton, c/o *The New York Daily News*, 450 W 33rd Street, Fl. 3, New York, New York 10001, Tel. (212) 210-2100, will be called to give testimony concerning, *inter alia*, the Defendant's statements published to him as alleged in the Complaint and as set forth in the accompanying articles titled "In face of athletes' denials, Victor Conte points to calendars," and "BALCO founder Victor Conte has tell-all book ready";

16. Tim Smith, c/o *The New York Daily News*, 450 W 33rd Street, Fl. 3, New York, New York 10001, Tel. (212) 210-2100, will be called to give testimony concerning, *inter alia*, the Defendant's statements published to him as alleged in the Complaint and as set forth in the accompanying article titled "Shane Mosley admits to using BALCO steroids";

17. Lance Pugmire, c/o *Los Angeles Times*, 202 W. 1st Street, Los Angeles, CA 90012, Tel. (213) 237-5000, will be called to give testimony concerning, *inter alia*, the Defendant's statements published to him as alleged in the Complaint and as set forth in the accompanying article titled "BALCO founder says Shane Mosley knew he was using steroids";

18. Additional witnesses from Mosley's 2003 training camp will also be identified shortly, all of whom may have discoverable information concerning, *inter alia*, Conte's actionable conduct as alleged in the Complaint;

PLAINTIFF'S INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)

1 19. Plaintiff also hereby designates as his own witnesses all those designated by
2 Defendant, as well as his rebuttal witnesses, if any;

3 20. Plaintiff also specifically reserves the right to call additional, as yet undetermined,
4 rebuttal witnesses, whose testimony is made necessary by the testimony and/or other proof elicited
5 during Defendant's case.

6 **DOCUMENTS:** *See* enclosed. Plaintiff is reviewing his files, and will shortly produce
7 additional relevant documents, if any. In addition to the foregoing, the documents sought pursuant
8 to Plaintiff's May 13, 2008 Request for the Production of Documents, Set One, are relevant.
9 However, those documents are peculiarly within the possession, custody, and control of Defendant
10 or third parties. Additional relevant documents of which Plaintiff is presently unaware may also be
11 in the possession, custody, or control of Defendant or third parties.

12 **DAMAGES:** Expert testimony will establish that the money damages attributable to the
13 injury to reputation suffered by Plaintiff as a result of the Defendant's wrongful acts amounts to
14 many millions of dollars, but in no event less than \$5,000,000 in actual damages with punitive
15 damages in the amount of \$10,000,000. Until expert disclosure has been completed, a more detailed
16 calculation of damages will not be possible.

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PLAINTIFF'S INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)

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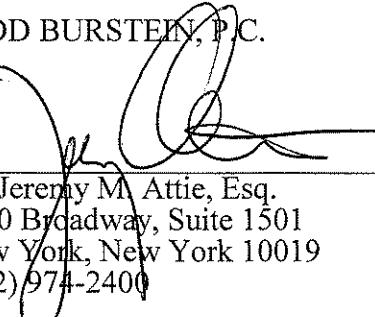
1 **INSURANCE:** Plaintiff is not currently aware of any insurance policies affecting this matter.

2 Dated: New York, New York
3 May 21, 2008

4 Yours, etc.,

5 JUDD BURSTEIN, P.C.

6 By:

7 
8 Jeremy M. Attie, Esq.
9 1790 Broadway, Suite 1501
10 New York, New York 10019
11 (212) 974-2400

12 AND

13 LONG & LEVIT LLP
14 Kim Dincel, Esq. (SBN 131563)
15 465 California Street, 5h Floor
16 San Francisco, California 94104
17 (415) 397-2222

18 *Attorneys for Plaintiff Shane D. Mosley, Sr.*

19 PLAINTIFF'S INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)



[PRINT] ESPN.com: Boxing



[Print without images]

Friday, February 27, 2004

Mosley's Genius Boxing IQ

By David A. Avila
[Maxboxing.com](http://www.Maxboxing.com)

BIG BEAR LAKE - In the lofty realm of geniuses exist such intellects as Aristotle, Leonardo Da Vinci, Thomas Edison, Albert Einstein and Shane Mosley.

Shane Mosley, you cough? In what circumstance can one offer on his behalf?

Well, my friend, in the world of professional fisticuffs, the man known as 'Sugar Shane' wields a razor sharp intellect inside the ring that supercedes the speed and accuracy of any computer processing chip.

Mosley (39-2, 35 KOs), the affable WBA and WBC junior middleweight title-holder who will be fighting IBF title-holder Winky Wright (46-3, 25 KOs) for the undisputed 154-pound world title on March 13 in Las Vegas, rarely enters the ring with a physical advantage. Yet he prevails.

Not since fighting as a 135-pound lightweight has Mosley at 5-8 in height enjoyed a physical advantage. Even then, he suffered handicaps that would render any normal person near helplessness such as his bout against John Brown in on April 17, 1999 in Indio.

"That was the fight I had problems trying to lose weight. I didn't eat for two days. And after that I went to the scales and I still had to lose two pounds," said Mosley, 32, explaining the rigors of boxing outside the ring. "I jumped in the shower and I shadow boxed to lose the last two pounds after not eating for two days."

Since that time in April 1999, the Pomona prizefighter has captured world titles in two more weight divisions despite lacking in height in almost every fight.

The reason is simple says Mosley.

"My speed helps, my strength, my movement, but I think with my mind I outthink opponents. My concentration is a lot higher," said Mosley as he ate a plate of salad at a Big Bear steakhouse. "It's all combined. I think that I outthink a lot of fighters. And maybe cause I'm faster, they can't think as fast as I can."

And what does he think about when he senses his opponent is befuddled?

"I think about how I'm going to trick them into the next shot and knock them out," he said with a hearty laugh.

Need proof?

During his fight against Oscar De La Hoya, Mosley realized his usual quickness advantage had been taken away by his lifelong foe. Instead of resuming headstrong with his original plan of box and move, he changed tactics.

"The worst thing you can do is fool yourself that you're as fast. If you're not faster than you do something else," said Mosley. "So if I'm not faster but I'm stronger than you, I'm going to use my strength to try to wear you down. If I'm faster I'm going to use my speed and feints."

Jack Mosley, Shane's father and trainer, said his son never enters a fight unprepared to change tactics several times.

"Shane always goes in with a Plan A, a Plan B or a Plan C," said Jack. "If we have to change we change. Most fighters just have one plan and if that don't work then it don't work. We don't go into fights like that."

Though he's scheduled to fight Wright, he is already making plans to fight Felix Trinidad who has come out of a two-year retirement. And after that who knows?

"Tito beat Oscar, I beat Oscar, I think it's a good situation that we fight," said Mosley of a possible match against Puerto Rico's Trinidad perhaps in September. "He outweighs me he fights at 160 pounds. But I take consideration that he's been out of boxing for a while so we'll try to make it happen. It's a good match."

That's Mosley for you. He's always thinking.

SHANE ANSWERS STERIOD LINKS

Honest as ever, Mosley talked about how he was subpoenaed by the Grand Jury because of a loose connection with a San Francisco Bay area company.

"The reason they started investigating him is for tax fraud," said Mosley of a Grand Jury case against BALCO. "They had Barry Bonds, Tracy White the track runner, they had about 40 athletes that they subpoenaed. They just asked me questions on what did I take and how long I'd been taking vitamins. When I wrote the check to them, how much I wrote the check to them, for this and that."

Mosley said other than vitamins he would not ever take steroids.

"Boxers don't need that because it makes you tight for one thing. Boxing's done from the mind it's not really just physical," he said. "Everybody is fast and strong it's done from here (points to his head). So I don't need this. I never have taken them and never wanted to."

The Pomona speedster employs two brothers B.B and Darryl Hudson who regulate his eating habits, warm up exercises, strength conditioning and recuperation. The brothers have him cutting back on weight lifting, something he loves to do.

"You apply plyometrics to make him quicker," said Darryl Hudson, a former sprinter.

Mosley agrees.

"I think for this I kind of fight I have to go a little bit slower on the weight training. I feel like in my last fight I felt a little stiffer than usual," said Mosley. "I'm not lifting as much weights. I'm still strong but I'm working on more elasticity."

OTHER OPPONENTS BESIDE TITO

Shane said he's heard his name called numerous times by well-known fighters in other weight categories but he doesn't take them seriously.

At one time Floyd Mayweather Jr. had called out Mosley but when the Sugar man found himself commentating on one of Pretty Boy's fights, he asked him.

"I asked him (Mayweather) about fighting me when I was commentating," Mosley recalls. "He said 'no man I'm going to try and break Carlos Monzons record' or something so I said cool and I fought John Brown."

Another fighter who drops Mosley's name publicly in challenging tones is New York's Zab Judah.

"Zab is another one. He always wants to call me out but he never stepped to the plate," said Mosley chuckling a bit. "I said step up to 147 like Antonio Diaz did. Come up. But he said 'oh I can't because I'm going to fight Kostya Tszyu.' He got knocked out."

Mosley said fighters shouldn't call out fighters unless they're serious, not delirious.

"When I was at lightweight I didn't say I want you, I want you. I went right up to 147 and said I'm going to fight Oscar and we fought. I didn't stay at 135. No, no. If I'm going to fight him then I'm going to fight. When I said it, we're going to do it," said Mosley referring to his challenge and acceptance to fight De La Hoya the first time in June 2000. "When Trinidad says he wants to fight but at 160, I say let's do it at 160. OK. At 160 we'll do the fight. He makes 160, that's it. That fight's done."

ERIK MORALES VS. JESUS CHAVEZ

Tijuana's Erik Morales (45-1, 34 KOs), the former WBC featherweight title-holder, was in the Southern California area on Tuesday. He is moving up to the 130-pound division to fight WBC junior lightweight title-holder Jesus Chavez (40-2, 28 KOs) on Saturday at the MGM Grand in Las Vegas. Expect a tremendous fight.

It's Chavez's first title defense after beating Thailand's Sirimongkol Singmanassak on Aug. 15 last summer. It's Morales first fight since stopping fellow Mexican Guty Espadas in three rounds last October in Los Angeles. The fight will be shown on HBO live on Saturday.

DIEGO CORRALES

I stopped by Diego Corrales's training camp and saw some pretty interesting developments. Of course I was sworn to secrecy by trainer Joe Goossen and his assistant trainer Elan.

Corrales looked pretty loose and close to fighting weight. The only thing I saw that look like it needed work was his chin was still out there a bit. He needs to tuck it in further. When he got dropped by Joel Casamayor in their first fight, it was because his chin was out. If you need proof, just look at Marco Antonio Barrera before he fought Junior Jones. He got dropped because he used to have his chin exposed. After Jones, Barrera only got dropped against Manny Pacquiao in his last fight. That's because he learned to tuck his chin in tight. Another example is Oscar De La Hoya. He used to fire punches with his chin out and got dropped by lightweights. Now he has his chin tucked in and people talk about how he can take a punch. Tucking in the chin makes all the difference in the world. You don't believe me? Just stick your chin out and put your forefinger on your forehead and push. See how easy your head moves back. But if you tuck your chin in and push your forehead with your forefinger, your head doesn't move back so easily. That's Boxing 101.



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Tuesday, February 7, 2006

Jones, Conte settle BALCO defamation suit

Associated Press

SAN FRANCISCO -- The convicted ringleader in the BALCO doping scandal settled a defamation lawsuit brought by track star Marion Jones over allegations that she used banned performance-enhancing drugs, a lawyer in the case said Tuesday.

Jones settled her \$25 million suit in U.S. District Court here Monday against Victor Conte, who's serving a four-month prison term for his role in the steroid scandal.

Terms of the deal were not disclosed.

"The case has been settled on confidential terms," Conte attorney James Wagstaffe said. Jones' attorneys did not return messages.

The settlement came two weeks after Wagstaffe submitted documents saying he would, as part of the case, take the depositions of Jones, "and other individuals who will corroborate plaintiff's use of anabolic steroids and other performance enhancing drugs."

Jones filed the \$25 million suit in December 2004 after Conte said on the "20/20" television program and in a magazine article that he supplied Jones with an array of banned drugs that she then used to help her win five medals at the 2000 Summer Olympics in Sydney.

Jones said Conte, the founder the Bay Area Laboratory Co-Operative firm, had a vendetta against her and accused him of lying to try to destroy her career and reputation.

Conte maintained his statements about Jones were accurate, and told The Associated Press when the case was filed that "I look forward with all confidence to the court proceedings as I stand by everything I said."

Jones pulled out of the U.S. Championships last year, citing an injury. The U.S. Anti-Doping Agency has not charged her with a doping offense.

Conte is scheduled to be released to home confinement March 30 from a federal prison near Bakersfield, where he is serving time for orchestrating the illegal steroids distribution scheme that reportedly involved Barry Bonds, Jason Giambi and others.

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USA
TODAY

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After BALCO, Conte still in the supplement game

By Bob Nightengale, USA TODAY

BURLINGAME, Calif. — Banners celebrating Tuesday night's Major League Baseball All-Star Game welcome visitors everywhere in San Francisco, but lurking 15 miles south of downtown is a drab, beige building, a backdrop to the dark side of the sport.

This is the place baseball wants to go away, knowing the ominous threat to the sport's purity.

Tourists have stopped coming here, to the corner of Gilbreth Road and Mahler Avenue, taking pictures for friends back home. The famous sign that sat atop the building in this commercial strip mall has been covered with white paint. The front yard sign is gone, too, the discarded posts lying in a heap behind unkempt shrubs.

There's no visible outside evidence that an office here once worked with some of the world's greatest athletes. San Francisco Giants All-Star outfielder Barry Bonds—who has 751 home runs, four shy of Hank Aaron's career record—walked through these doors. So did baseball players Gary Sheffield of the Detroit Tigers and retired outfielder Marvin Benard. Olympic track stars Marion Jones and Tim Montgomery were star clients. Boxing champ Shane Mosley and Olympic swimmer Amy Van Dyken were regulars. Four-time Super Bowl champion Bill Romanowski provided 250 clients alone, Victor Conte says, including former San Francisco 49er and Oakland Raider Dana Stubblefield.

"This is where it all happened," says Conte, who turns 57 on All-Star Tuesday, his thinning hair slicked back, with hair dye covering strands of gray.

"This is where I became the Saddam Hussein of sports."

This is the former home of the Bay Area Laboratory Co-Operative (BALCO), which made and distributed legal nutritional supplements and illegal performance-enhancing substances. It became the focal point of the greatest doping scandal in U.S. sports history, one that includes steroid allegations surrounding Bonds.

"I hurt a lot of people and caused a lot of harm and damage," says Conte, founder of the supplement and drug laboratory connected to five people who have been convicted of crimes, including Greg Anderson, Bonds' personal trainer. "Serious mistakes were made, and I learned some valuable lessons in the process."

"A lot of people in this world have made mistakes, including me. Did I commit crimes? Yes. Did I do time? Yes. It took awhile for me to forgive myself, and I have."

"I can't understand all of the hate. At some point, I hope the world can forgive me. I should be entitled to a normal life."

Conte, who spent four months in federal prison for distributing steroids and illegal performance-enhancing drugs, parks his \$180,000 silver Bentley Continental outside the building's door. He says he reduced his staff from 19 people to six and now rents out half of his 8,000-square-foot office. But he says he still is earning more than \$1 million a year as the head of a nutritional supplement company called Scientific Nutrition for Advanced Conditioning (SNAC).

"There's no reason for him not to be successful," says Romanowski, who confirms Conte's claim that he was the first athlete to use Conte's undetectable steroid called "The Clear" and now sells supplements that include Conte's patented zinc and magnesium formulation called ZMA. "Nobody in the world knows nutrition as well as Victor. He made a mistake, but he paid the price. He is doing things the right way now."

SNAC's website says the firm "has been providing nutritional consultation and supplements to elite Olympic and professional athletes for more than 15 years." The site lists many such athletes who "have incorporated SNAC supplements into their training and competition regimens," Bonds among them.

Conte says he ships his supplements to several members of the Texas Rangers at the team's offices. Rangers pitcher Scott Feldman had Conte's supplements in his locker in May, but Texas general manager Jon Daniels says the club told Feldman to dispose of it because the product is not included on MLB's approved supplements list. Daniels says he is unaware of any other shipments from Conte to anyone else in the Rangers organization.

"Our doctors say there may not be anything wrong with (Conte's products), but there's no sense of having yourself associated with the name at this point," Daniels says.

"The reality is that I've worked with athletes from '84 to '99," Conte says, "and everything I did was legitimate. It had nothing to do with steroids. Then I realized that ... athletes had no choice. The use of performance-enhancing drugs was rampant. It was the culture."

"Trust me, the athletes were going to use drugs, with or without my help."

Questioning program

Conte, a former bass player for jazz pianist Herbie Hancock and the soul group Tower of Power, laughs in his deep baritone voice at Major League Baseball officials' suggestion that the sport has an effective drug testing program. His illegal-drug days may be over, but to believe that anything has changed since baseball implemented its steroid policy, he says, is as fictional as the Easter Bunny.

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"I'd say about half of the players you'll see in the All-Star Game," Conte says, "have used steroids and illegal performance-enhancing drugs since the end of last season."

"And 80% have used (amphetamines)."

Yet New York Mets reliever Guillermo Mota and Tampa Bay Devil Rays reliever Juan Salas are the only major league players who have been suspended for testing positive for steroid use since the end of last season. Fifteen major league players have tested positive since the steroid policy was implemented in 2005, with former slugger Rafael Palmeiro the only star player. Detroit Tigers infielder Neifi Perez on Friday became the first player suspended for banned-stimulant use since baseball started testing last year.

"I just had a meeting with team doctors and trainers and experts from UCLA in the last two weeks," Commissioner Bud Selig says, "and they don't share Victor Conte's view at all. Neither do I. We have the toughest testing in American sports."

"Mr. Conte is entitled to any opinion he wants, but I received an opinion from all of our medical people and experts and two labs, and (Conte's) view is contrary to everything I was told."

Conte, who designed undetectable performance-enhancing drugs and demonstrates one of his old drug kits, said baseball officials are fooling themselves. The MLB steroid testing policy — which allows players to be tested at least once a year during the regular season with as many as 60 players subject to tests in the offseason — is significantly flawed, he says.

"The testing program is a joke," Conte says. "The toughest in sports? Who are they catching? Try nobody."

"The reason they're not catching anybody is because players don't use steroids during the season. They use steroids during the offseason, when they don't test. When they do test, guys are using human-growth hormone and insulin, which is undetectable."

"Baseball acts like they were tough when they increased the penalty from 10 games to 50 games. What difference do the penalties make if none of the players are getting caught? It tells me, 'Do they really want to catch anybody?'"

Besides, Conte says, raising his voice for emphasis, Major League Baseball officials never said they were publicly suspicious of steroid use until the BALCO case. Selig, who hired former Senate majority leader George Mitchell to investigate the role of performance-enhancing drugs in baseball, has yet to declare whether he'll try to attend Bonds' record-setting game and celebrate the feat. Bonds, according to the *San Francisco Chronicle*, testified to a federal grand jury in 2003 that he unknowingly used steroids, "The Cream" and "The Clear." Bonds is not known to ever have tested positive for a banned substance.

Conte said Bonds told the BALCO grand jury he never used Conte's steroid-laced cream, even unwittingly, contradicting the *Chronicle's* report. Bonds was referring to a simple over-the-counter rubbing balm, Conte said, used for arthritis and fatigue.

"I know what Bonds said," Conte says, "and he never said he used 'The Cream' or 'The Clear.' He never admitted to using steroids." USA TODAY has not seen transcripts of the testimony. Troy Ellerman, who was Conte's initial lawyer for the matter, has admitted letting a reporter for the *Chronicle* see confidential transcripts of grand jury testimony in the case, including Bonds', Sheffield's and New York Yankees designated hitter Jason Giambi's.

Giambi confessed to using steroids in his testimony before the BALCO grand jury, Conte says. Giambi provided detailed information about his past steroid use, dating to the early '90s, Conte says. Giambi, who has admitted to steroid use, announced two weeks ago he will cooperate with Mitchell's investigators. The interview is scheduled in the next two weeks, according to a high-ranking MLB official.

"I can tell you there were a lot of guys who lied to the grand jury," Conte says. "Jason wasn't one of them. He was very honest. He's a guy who very much would like to tell the truth, and they threatened him with a suspension. How is that helping?"

Suspicion but no proof

Just 100 yards from Conte's office is a warehouse. It has no windows but massive steel doors. The floors consist of rubber mats. Inside, there's a café to the left, a basketball court to the right and rows and rows of weights, designed for the serious weightlifter.

This is the gym where Bonds and Anderson trained. Bonds is guaranteed to earn at least \$15.8 million this year from the Giants. Anderson, who earns 12 cents an hour performing chores, has not been around since November, imprisoned at the Federal Correctional Institute in Dublin, Calif., for contempt of court for refusing to testify before a federal grand jury investigating Bonds. There are no pictures of Anderson in the gym, but there is a contribution jar, seeking donations of at least \$3, for which donors receive a "Support Greg Anderson" bumper sticker in return.

"It drives Barry crazy that Greg is in jail," says Mike Rains, Bonds' attorney, who has one of the stickers prominently displayed in his office in Pleasant Hill, Calif. "Barry knows they're harassing Greg just to get to him. It's sad that here's the All-Star Game and Greg's not going to be there. If anybody should be there — outside Barry's family — it should be Greg."

Anderson, 41, served a three-month prison sentence after pleading guilty in 2005 to distributing steroids and to money laundering. Anderson confessed to furnishing steroids to several baseball players but is not known to have identified any.

"Did Barry use steroids?" Conte says. "I have no idea. I provided (illegal) performance-enhancing drugs to Greg Anderson, but I never provided them to Barry."

"Should there be some suspicion? Absolutely."

"Is there proof? None whatsoever."

Taking credit for change

Conte, who is recognized nearly everywhere he goes, says he no longer worries about his safety. Some consider him a villain, accusing him of ruining sports. Others consider him a hero for talking about steroid use by elite athletes — even though it took a federal investigation before he publicly commented.

"As much as people want me to climb under a rock and stay there," Conte says, "I helped create a lot of positive change. I'm the one to push over the world's first domino and brought to the world's attention that change is needed. I believe I'm one of the most qualified people in the world to help create a genuine level playing field for the young athletes of the future."

Conte, who used to attend four to six Giants games a year, hasn't gone since BALCO was raided Sept. 3, 2003. ("I don't want to create more questions, more problems for Barry," Conte says.) He says he'll watch the All-Star Game from his home, as well as the game in which Bonds breaks Aaron's home run record. One day, when everything is settled, Conte says, he plans to return to the ballpark, cheering like every other loyal baseball fan in San Francisco.

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"This whole BALCO investigation turned out to be nothing more than a whopper of a fish story," says Conte, pointing out that 40 of the 42 charges were dropped. "They say they caught a 30-foot shark, but when they got the tape measure out, it turned out to be nothing more than a 2-inch minnow."

"It'll be the same with Barry. They've tried to ruin his life, just like they did mine, but in the end, it'll turn out they have nothing."

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Mosley accused of doping

BALCO-related claim casts doubt on De La Hoya bout

Posted: Friday September 28, 2007 11:32AM; Updated: Friday September 28, 2007 8:46PM

By Luis Fernando Llosa and L. Jon Wertheim/SI.com

According to multiple sources who attended an international anti-doping conference in Colorado Springs last November, **Jeff Novitzky**, a lead investigator in the BALCO case, alleged that boxer **Shane Mosley** started an elaborate doping regimen in the months prior to a Sept. 13, 2003, fight against **Oscar de la Hoya**.

As Novitzky explained in painstaking detail, two months before the light middleweight championship fight, Mosley, a client of the BALCO lab, began using "the clear" [THG] and "the cream" [testosterone], the designer substances that **Barry Bonds**, among other athletes, stands accused of using. Novitzky said that Mosley supplemented this with doses of the blood-doping drug Erythropoietin (EPO), a hormone that artificially increases red blood cell production.

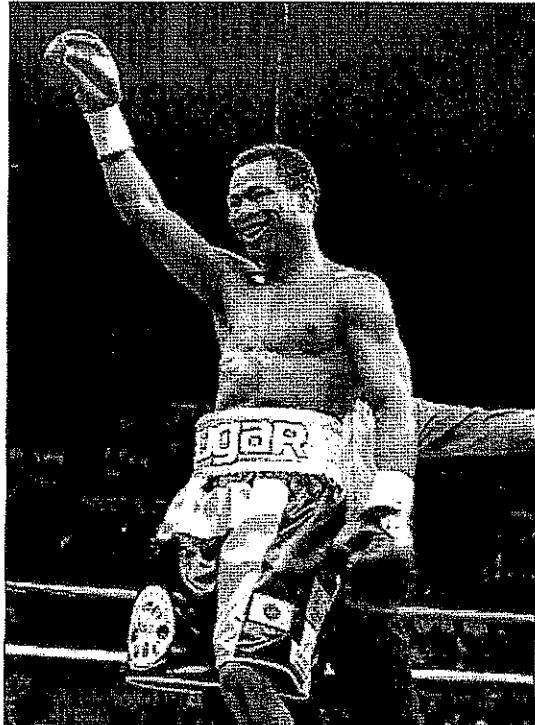
"I'm disappointed that this is coming out again, four years after I've been to the Grand Jury and gave my truthful testimony," Mosley said in a release issued by his publicist. "I even took a lie detector test back then to let everyone know that I wasn't trying to be an unfair fighter."

Mosley's alleged prescribed regimen bore striking similarities to that of former world champion sprinter **Michelle Collins**, who was implicated in the BALCO investigation and was served with a four-year suspension, despite never having tested positive for a performance-enhancing drug.

Evidence seized during the BALCO raids, which was presented at the November conference, indicates that on July 26, 2003, results of blood work Mosley had done established that his hematocrit level -- a test measuring the volume of red blood cells -- was 44. On a calendar that accompanied Mosley's file, the date 7/26 was circled and accompanied by the word "start" and the letter "e," which investigators believe represents EPO. By Aug. 8, Mosley's hematocrit level had soared to 52.2. "Most men are in the low 40s," says anti-doping expert Dr. Gary Wadler. "Anything over 50 is considered off the charts." That level, Wadler says, is dangerously high but could benefit an athlete's stamina. According to the calendar, Mosley's last dose of EPO was administered on Sept. 8, five days before the fight.

Blood doping -- i.e. the attempt to boost red blood cells, thereby increasing the capacity to carry oxygen to muscles -- has run rampant in cycling and distance running for years, and it's not surprising that it may be spreading to other sports that rely upon lung capacity as well as muscle strength.

Indeed, against De La Hoya, Mosley won a unanimous decision, largely because of his strong finish to the 12-round fight at the MGM Grand in Las Vegas. As SI boxing writer **Richard Hoffer** wrote at the time, "[Mosley] did curry favor with the judges by landing the harder punches, beginning in the ninth round and culminating in a vicious 12th that had De La Hoya nearly dead on his feet, his mouth gaping horribly."



Jeff Novitzky (of BALCO investigation fame) alleged that boxer Shane Mosley started an elaborate doping regimen prior to a Sept. 2003 fight.

Ethan Miller/ Getty Images

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Mosley was subpoenaed in the BALCO investigation and testified to law enforcement officials in the fall of 2003, though he has denied ever taking banned substances and has never tested positive for performance-enhancing drugs, including EPO. Wadler asserts that there is an accurate urine test for EPO, but the Nevada State Athletic Commission does not administer it.

Keith Kizer, executive director of the commission, claims that "about five years ago there were discussions about EPO... but it seemed like something that probably wasn't going to be used by boxers." Kizer says that, faced with so-called "non-analytical" evidence of a boxer taking an EPO regimen leading up to a fight, the commission would consider disciplinary action and possibly deny the athlete a request for a future license.

Adding an ironic twist to this saga, barely a year after Mosley defeated De La Hoya, the two became business partners. In Mosley's upcoming WBC welterweight title fight on Nov. 10 against Miguel Cotto, he will be represented by De La Hoya's company, Golden Boy Promotions.

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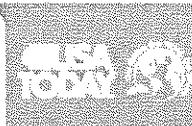
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Report: Mosley admits 'unknowingly' using steroids

The Associated Press

Boxer Shane Mosley is accused of using BALCO designer steroids "the clear" and "the cream" as part of a doping regimen before a 2003 fight against Oscar De La Hoya, SI.com reported Friday.

Citing multiple unidentified sources who attended an international anti-doping conference in Colorado Springs, last November, SI.com reported that lead BALCO investigator Jeff Novitzky alleged that Mosley began using those two drugs, as well as EPO, two months before the light middleweight championship fight won by Mosley.

A BALCO client, Mosley was subpoenaed in the Bay Area Laboratory Co-Operative investigation and testified before the grand jury in 2003. He had always denied doping and has never tested positive.

But Mosley on Friday confirmed that he had unknowingly taken some banned substances.

He said that his former strength and conditioning coach, Darryl Hudson, convinced him to take substances from BALCO, and that he unaware of what they were.

"Unknowingly, yes, some of the substances they are talking about, were being used as part of the workouts," Mosley told ESPN.com. "I didn't know what the (heck) it was."

"I didn't know anything about that stuff. It was something given to me, pushed up on me. I'm a health freak-type of guy. I like to have everything organic, natural."

He had said earlier Friday that he was upset that the matter had come up again.

"I'm disappointed that this is coming out again, four years after I've been to the grand jury and gave my truthful testimony," Mosley said in a statement issued by publicist Debbie Caplan. "I even took a lie detector test back then to let everyone know that I wasn't trying to be an unfair fighter."

According to SI.com, evidence seized during the BALCO raids showed Mosley had blood work done to measure his hematocrit level, the volume of red blood cells, at 44. In a calendar with his file, the date of July 26 was circled, accompanied by the word "start" and the letter "e," the website reported, and the boxer's level increased to 52.2 by Aug. 8.

"Most men are in the low 40s," Dr. Gary Wadler, a member of the World Anti-Doping Association, told SI.com. "Anything over 50 is considered off the charts."

According to that same calendar, Mosley received a final dose of EPO, which stimulates red blood cell production, on Sept. 8, five days before the fight, SI.com reported.

Victor Conte, the BALCO founder, was released from prison in March 2006 after pleading guilty to selling designer steroids.

"We went out there and I left him (Conte) a check for \$1,500 with my name on it, and from then on I never saw him again," Mosley said Friday. "But from the beginning I had them contact the Nevada State Athletic Commission to make sure there were no problems. They got the banned substance list and I was told that nothing I was being given was on that list."

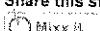
"I was upset because I didn't even need to go there," he said, meaning he didn't feel he needed any help for the matchup with De La Hoya. "I already felt that I was the better man and the better fighter. I wondered why I had to get in the middle of this type of scandal. It was kind of crazy and I felt used."

Blood doping has long been an issue in cycling and running, where athletes have boosted red blood cells to increase the capacity to carry oxygen to the muscles.

Mosley is scheduled to fight Miguel Cotto on Nov. 10 in a WBA welterweight title bout.

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Shane Mosley admits to using BALCO steroids

BY TIM SMITH

DAILY NEWS SPORTS WRITER

Saturday, September 29th 2007, 2:14 AM

Shane Mosley said last night that he inadvertently took two designer steroids — "the cream" and "the clear" — before his championship fight against Oscar De La Hoya in 2003 after he was misled by BALCO founder Victor Conte about what he was actually taking.

"We were misled (by Conte)," Mosley told the Daily News. "I guess I got the clear and the cream."

Conte disputed that in an e-mail response to The News. "I've never misled or deceived any athlete," Conte wrote in the e-mail. "I've always been a man of full disclosure."

According to a report on SI.com yesterday, Mosley used the two types of designer steroids and EPO two months before his junior middleweight championship fight against De La Hoya in 2003.

Mosley said that his strength and conditioning coach at the time, Darryl Hudson, took a list of the substances Mosley believed he was using to the Nevada State Athletic Commission before his fight with De La Hoya and was told none of them were on the banned list.

Mosley said he didn't want to take any kind of drug or workout aids.

"To be honest with you, I told them I was already in great shape," he said, adding that he met Conte one time and gave him a check for \$1500. "I didn't want to take anything. I didn't need anything. He (Conte) assured me it should be on the up and up. He assured me I'd never have a dirty test."

The SI.com report cited several unidentified sources who attended an international anti-doping conference in Colorado Springs last November where the government investigator in the BALCO case, Jeff Novitzky, said that Mosley began using the substances.

Mosley said he became aware that he might have used steroids after Conte was indicted "and I saw this guy on television."

Mosley said Hudson tried to reach Conte but that he would not return calls. "I saw this guy one time," said Mosley.

Mosley was subpoenaed in the BALCO investigation and testified before a federal grand jury in 2003. He has always denied using steroids and has never tested positive.

Mosley won a 12-round unanimous decision against De La Hoya in Las Vegas on Sept. 13, 2003. Oddly, Mosley is now working as head of boxer development at Golden Boy Promotions, De La Hoya's company. Mosley said then that he contacted the Nevada Boxing Commission about what he had been taking and they told him that nothing he was using was on its list of banned substances.

Mosley, 35, is currently training in Big Bear, Calif., getting ready to fight Miguel Cotto for the WBA welterweight championship at Madison Square Garden on Nov. 10. Ron Scott Stevens, the chairman of the New York State Athletic Commission, could not be reached for comment on whether the allegation that Mosley used designer steroids and EPO — a substance that increases the volume of red blood cells and the oxygen carrying capacity in the blood — would have an impact on his being licensed in New York for the fight against Cotto.

According to the SI.com report, evidence seized during a raid of BALCO showed that Mosley had blood work done measuring his hematocrit levels — the volume of red blood cells. There was also a calendar in Mosley's file with July 26 circled accompanied by the word "start" and the letter "e" by Aug. 8 and it noted that his levels had increased from 44 at the start to 52.2 (an abnormally high level) on Aug. 8, according to the report. In his statement Mosley does not address the issue of whether he took EPO.

Mosley said he recalled taking two blood tests "to see if I was low on iron or calcium."

"I know in my heart that I'm a clean guy and a good guy," he said, "and I think all the fighters, promoters and even the boxing writers know what type of person I am, what type of fighter I am, and I don't need that type of edge. My record speaks for itself in this matter, I've always been a clean fighter, and I have nothing to hide. That one little hiccup should never have happened, and it won't happen again."

Breaking News

Victor Conte files motion to keep BALCO documents

BY MICHAEL O'KEEFFE AND TERI THOMPSON
DAILY NEWS SPORTS WRITERS

Monday, November 26th 2007 10:37 PM

Fearing the government might not be finished with him yet as it prosecutes Barry Bonds, Victor Conte filed a motion Monday asking a federal court to reconsider its order for him and three other BALCO defendants to return or destroy all sealed material detailing drug use among elite athletes in the ongoing steroids case.

According to the motion, which was joined by BALCO vice-president James Valente, Bonds' trainer Greg Anderson, and track coach Remy Korchemny, the government is seeking to obtain grand jury transcripts, search warrants affidavits, drug lists, financial records and statements of the parties, many of which have already been leaked to the press, possibly in an attempt to prosecute the parties if the documents are leaked again in the future.

U.S. District Court Judge Susan Illston ordered the four on Sept. 11 to return or destroy the documents they received after they were charged in 2004 with operating a steroids ring out of BALCO.

"If the moving parties are required to assure the Court that they have returned all sealed documents or to certify that they have destroyed them in a case marked by unprecedented leaking and over such a long period, they are exposed to an open-ended danger that subsequent publication of the contents of any such documents will expose the moving parties to suspicion, scrutiny, searches and accusation," the motion reads.

Attorneys familiar with the case told the Daily News it is not unusual for federal prosecutors to ask defense lawyers to return documents or certify their destruction as they pursue additional cases.

The grand jury transcripts from the BALCO investigation that sent the four defendants to jail were famously leaked to the San Francisco Chronicle as the investigation into steroid use in baseball, track and other sports unfolded beginning in late 2003, and have become the subject of a best-selling book by the Chronicle reporters, stories by numerous media outlets, have been given to Congress and are in the hands of "prosecutors and investigators around the world," according to the document filed today. "Some are available on the Internet, others in newspapers and books."

Former Valente defense attorney Troy Ellerman pleaded guilty to obstructing justice by leaking the secret grand jury documents to the Chronicle and was sentenced to 2.5 years in prison for his role in leaking the transcripts to the Chronicle, which published a series of articles by reporters Lance Williams and Mark Fainaru-Wada and a book detailing the testimony.

According to the motion, Conte and Anderson fear the court could use the order to destroy the documents in a "coercive manner." Conte was fingered by the U.S. Attorney's office for the Central District of the California as the source of the leaks to the Chronicle at one point in its investigation, even though the Chronicle filed court papers denying Conte was the leak.

"(The U.S. Attorney's office) pursued Mr. Conte as the target of an investigation into the leaking of the very grand jury transcripts that are the subject matter of this order," according to the motion. "Even after the prosecutors were told privately and in court papers by the San Francisco Chronicle that Mr. Conte was not the source of the leaks, they persisted in their pursuit of Mr. Conte. (He) was the target of an armed FBI raid of his home, the publication of the government's unfounded suspicions that he was the leaker, and the stress, cost and intimidation of a full-scale government criminal investigation."

Anderson, who was released the day Bonds was indicted on perjury and obstruction of justice charges, had been held in contempt for not providing testimony about Bonds' alleged steroid use, most recently for almost a year. "The vigor and aggressiveness of the government's pursuit of Mr. Anderson suggested that he was an indispensable witness in the investigation of Mr. Bonds," writes the motion. "The recent indictment of Mr. Bonds in the absence of Mr. Anderson's testimony suggests otherwise....Given this history, Mr. Conte, Mr. Anderson and the other moving parties have more than a speculative fear that the Court's order will expose them to renewed threat of prosecution."

The BALCO defendants also claim in the motion that they need the documents to defend themselves in case they are dragged into the Bonds case, or other ongoing investigations, including against track coach Trevor Graham and cyclist Tammy Thomas. "It is entirely possible that one or more of these parties (government or defense) to these cases may seek the testimony of any or all of the moving parties in pretrial proceedings or at trial," according to the motion. "If that were to happen, it would be essential for the moving parties to have access to all of the materials subject to this order so they could adequately prepare....This is especially important given that the steroids investigation has given rise to a series of perjury investigations and prosecutions, which carry the risk of a far more serious sentence than to the underlying steroids cases themselves."

- With Christian Red

http://www.nydailynews.com/sports/baseball/2007/11/26/2007-11-26_victor_conte_files_motion_t... 5/7/2008

How BALCO founder Victor Conte would needle Brian McNamee

BY TERI THOMPSON
DAILY NEWS SPORTS WRITER

Tuesday, January 8th 2008, 8:23 PM

You remember Victor Conte, the founder of the granddaddy of the steroids-and-sports story, BALCO Laboratories, and as such an expert in the field of performance-enhancing drugs. The members of the House Committee on Oversight and Government Reform are sure to have a slew of fine questions for Roger Clemens, Andy Pettitte, Chuck Knoblauch and the others when the hearings convene next week, but you can't think of everything.

Here are some questions Conte would like to see the congressmen ask of Brian McNamee, the trainer for the players who'll appear. He provides the answers, too, in case anybody wants to cheat.

Q: It is stated in the Mitchell report that you allegedly injected Mr. Clemens with three types of anabolic steroids - Sustanon 250, Winstrol and Deca Durabolin. Can you tell us the basic color of each of these three steroids?

A: Sustanon 250 (testosterone), is oil-based and yellowish in color. Winstrol (stanazolol), is water-based and white in color. Deca Durabolin (nandrolone), is oil-based and yellowish in color.

Q: Anabolic steroids generally come in either small single-dose glass ampoules or larger multi-dose bottles. Can you describe the containers of the three steroids and the basic method of preparation used for injection?

A: Injectable anabolic steroids, which come in single-dose glass ampoules, must be broken by hand at the base of the snout before 1-2 cc of liquid is drawn out through the needle and into the syringe. Steroids contained in 10- to 20-cc multi-dose bottles have a rubber stopper, which is penetrated with the needle and then drawn out into the syringe.

Q: It is also alleged that you injected Mr. Clemens with human growth hormone. Do you recall the specific brand of growth hormone that you used on any of the occasions between 1998 and 2001? How about the number of units of HGH that were injected? Was it refrigerated?

A: HGH comes in three basic forms. 1. A small bottle of lyophilized powder packaged with a second small bottle that contains a diluent (water) to be mixed together. 2. HGH also comes as a clear liquid in a small bottle that has already been premixed. 3. Finally, HGH is available for use with a cartridge injector. These injectors look similar to a Sharpie pen and hold a small cylinder of clear liquid that contains the HGH. The needle tips are changed and an appropriate dosage is dialed up with each injection.

Q: Did you ever inject Mr. Clemens with a liquid that was red in color? If so, where on his body was the injection made?

A: Injectable Vitamin B-12 is red in color and usually injected into the buttocks area.

Q: Can you describe the sizes and types of syringes and needles that you used to inject Mr. Clemens with the various substances?

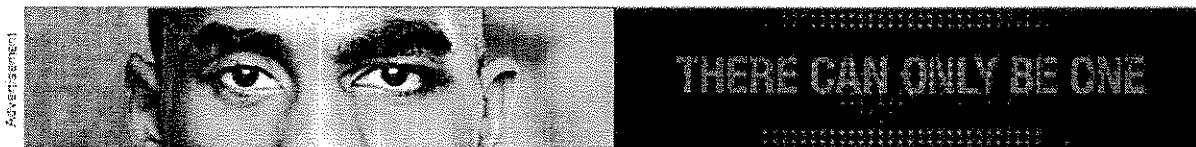
A: Three cc syringes with 1 1/2 inch, 21-gauge needles are generally used for intramuscular injection of anabolic steroids, including testosterone. Generally, injections are into the buttocks area. This larger syringe and needle are also used for the injection of B-12. Fifty- to 100-unit "insulin type" syringes with 1/2 to 5/8 inch, 29-gauge needles are generally used for the injection of HGH. Generally, subcutaneous injections are made into the stomach area. (According to the Mitchell Report, Clemens was queasy about using HGH, telling McNamee he did not like the "bellybutton shot.")

Q: Did you ever inject Mr. Clemens with a substance in any part of his body other than his buttocks or stomach area? If so, what color was the substance and where was it injected?

A: Lidocaine is clear in color and mostly administered as a localized injection in the area of pain.

Q: How many milligrams of testosterone per cc was allegedly injected on each occasion?

A: Testosterone is generally injected 1-2 cc's at time containing 50-250 milligrams of testosterone per cc.



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Judge rules BALCO founder, Bonds' trainer can keep documents

SAN FRANCISCO (AP) — A judge overseeing the BALCO steroids case has ruled against the government and says BALCO founder Victor Conte and Barry Bonds' personal trainer, Greg Anderson, can keep evidence prosecutors turned over to them from the investigation.

Federal prosecutors wanted the two convicted steroids dealers to return the documents. U.S. District Court Judge Susan Illston turned them down.

Anderson spent most of last year in jail for refusing to testify against Bonds. He was released after the indictment against Bonds on perjury and obstruction of justice charges was unsealed.

Conte served three months in prison after pleading guilty to steroids distribution.

The Associated Press

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<http://usatoday.printhis.clickability.com/pt/cpt?action=cpt&title=Judge+rules+BALCO+founder...> 5/14/2008

Conte needles IRS' Novitzky

BY NATHANIEL VINTON
DAILY NEWS SPORTS WRITER

Friday, March 28th 2008, 4:00 AM

SAN FRANCISCO - IRS special agent Jeff Novitzky, the government's top anti-doping enforcer, testified in a federal court Thursday that cyclist Tammy Thomas had impeded his investigation of the Bay Area Laboratory Co-Operative.

It was a dramatic break from the strict code of public silence that Novitzky has maintained since leading a raid on BALCO in 2003. His head freshly shaved, Novitzky folded his 6-7 frame into the chair on the witness stand, turned toward the jury and spoke with deep-voiced confidence for nearly two hours in Thomas' trial on perjury and obstruction of justice charges.

Conflict quickly ensued. Novitzky said that immediately following the raid, BALCO figures Victor Conte, James Valente and Greg Anderson confessed to distributing a undetectable designer steroid - now known as THG - to prominent athletes.

Conte, who has served time and is now one of Novitzky's biggest critics, has vigorously denied the agent's characterization of his confessions. In sworn affidavits, he has denied naming athletes.

"Novitzky did not tell the truth back then and he is not telling the truth now," Conte said in an e-mailed statement yesterday afternoon.

Because of inconsistent statements by Thomas, Novitzky said, it took years before the government was able to successfully prosecute Patrick Arnold, the Illinois chemist who created THG. Novitzky will not face cross-examination from the defense until the trial resumes on Monday, after which he will presumably retreat back into covert police work and continue to assist the FBI in its ongoing investigation of whether Roger Clemens lied to Congress.

Thomas was hardly BALCO's most prominent client, but her trial is being watched closely because Thomas was indicted for similar charges to those that Barry Bonds is facing - namely perjury and obstruction of justice in respect to testimony before a grand jury probing BALCO in 2003. Earlier this week, Arnold - who has also been jailed for his role with BALCO - testified that he gave steroids directly to Thomas, contradicting claims that Thomas made under oath previously.

"We lost, I felt, the opportunity to have the one witness with direct access and direct knowledge of Patrick Arnold," Novitzky said of Thomas. "There were no other witnesses that were in her category."

Assistant U.S. Attorney Jeff Nedrow showed the jury an e-mail seized by the government in which Thomas, writing to Arnold, referred to a "VC" in San Francisco. The e-mails proved that there was a link between the Arnold and Conte, Novitzky said.

But no sooner had Novitzky left the courthouse than Conte accused him of untruthfulness.

"I stand by everything in my sworn declaration that was filed with the court," Conte wrote. "In short, there was no confession as alleged by Novitzky in his memorandum of interview. It was simply a fabrication by him. I did not talk him about the use of drugs by any specific athletes on the day of the BALCO raid."

In fact, few specific athletes were named in yesterday's hearing, even as Novitzky gave a firsthand account, for the first time in public, of the origins and evolution of the sprawling BALCO case.

Frequently described as obsessive in his pursuit of performance-enhancing drug use in sports, the 40-year-old Novitzky revealed that he had Conte on his radar as early as the 1980s.

BALCO founder Victor Conte has tell-all book ready

BY TERI THOMPSON IN NEW YORK AND NATHANIEL VINTON IN SAN FRANCISCO
DAILY NEWS SPORTS WRITERS

Sunday, March 30th 2008, 8:51 PM

SAN FRANCISCO - Monday marks the return of Victor Conte, the charismatic founder of the infamous BALCO laboratory, to the position where he has always seemed to feel perfectly comfortable: At the center of attention, pleading his case.

Off criminal probation as of midnight on Sunday, Conte is expected to celebrate his return to freedom with a tell-all book spilling the juice on BALCO athletes and the federal agents who have been prosecuting them now for five years.

Conte, who has remained mostly silent as the government, the media and the athletes involved have examined, analyzed and dissected the most explosive drug case in sports history, says he will now tell his side of the story.

Slated for publication in September under the Skyhorse imprint, the book's working title is "BALCO: The Straight Dope on Barry Bonds, Marion Jones and What We Can Do To Save Sports." Conte, in conjunction with co-author Nathan Jendrick, promises to share "the dirt, the drugs, the doses, the names, dates and places, and a 'prescription' for a brighter future."

He promises the "complete truth in its honest, unadulterated and raw form" and says he is "ready to tell the world everything." While the BALCO athletes, particularly Barry Bonds and Marion Jones, have been in the unwelcome spotlight in recent years, Conte, who enjoys speaking his mind, has been frustrated by being forced to assume an uncharacteristic measure of discretion because of legal jeopardy. (It has also been an expensive battle for Conte. In the case of Jones, who is serving a prison sentence for lying to the government, Conte says he spent upwards of \$100,000 to defend a baseless \$25 million lawsuit Jones filed against him for saying she used performance-enhancing drugs).

One of Conte's biggest targets is likely to be Jeff Novitzky, the federal agent who sniffed out the BALCO conspiracy in 2003 and has tenaciously chased down every twist in it ever since.

Conte claims Novitzky, who is on the witness stand Monday in the government's prosecution of cyclist Tammy Thomas (the first BALCO athlete to refuse a plea bargain and take her case to trial), fabricated a confession he says Conte gave on the day of the BALCO raid, and lied in court documents.

The 27 athletes Novitzky says Conte confessed to giving drugs to in the September, 2003 raid on BALCO?

"He made the list himself," Conte says.

Novitzky faces cross-examination Monday by Thomas' attorney, who may attack the credibility of the secretive agent and uncover weaknesses that lawyers for Barry Bonds can exploit when Bonds goes to trial next year.

Novitzky was also the subject of an internal investigation by the Treasury Inspector General for Tax Administration (TIGTA) for leaking confidential investigative information about the case and for missing evidence, according to Conte.

"Novitzky and three other IRS special agents hired lawyers and signed proffers before cooperating with the investigation," Conte says. "There were inconsistencies with some of the statements. It was acknowledged in the report that the investigation could cause credibility issues for the agents if the BALCO case ever went to trial."

The investigation was apparently closed after six months.

In July 2005, Conte entered guilty pleas to two criminal counts and accepted a punishment of four months in prison and four months of house arrest. The prison term was also followed by a two-year probation period during which Conte's lawyers advised him to keep quiet about BALCO.

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Now, says Conte, he is free to dish up what he calls the lies, the sex-for-drugs exchanges between athletes and coaches, the drug calendars of famous sports figures, the injections given and the pills taken, the hypocrisies of some of the "reformed" athletes, factual errors he says exist in one of the books written about BALCO, and mostly, the government's abuses.

"It's my opinion that Novitzky is to law enforcement, what I was to sport," Conte says. "I helped athletes to use drugs, win medals and break records. I believe Novitzky has helped law enforcement to lie, steal and cheat in order to win cases. In both instances, the real question is whether or not the end has justified the means. It's my opinion that it has not, in either case. What's wrong is wrong and there is no justification for wrongdoing in sport or in law enforcement."

Conte says the book will also deal with what needs to be done to clean up doping in sports.

"It was not long ago when Bug Selig was claiming that baseball didn't have a drug problem. The world certainly knows now that there has been a rampant use of drugs in sport for decades. The anti-doping programs in place are still inept and this contributes to the use or lose mentality of many athletes. I will continue bring attention to the many loopholes that exist in the testing programs. Hopefully, one day athletes will be able to be clean and play on a level playing field at the same time."

"I see that I have the potential to make change - I can do that."

In face of athletes' denials, Victor Conte points to calendars

BY TERI THOMPSON IN NEW YORK AND NATHANIEL VINTON IN SAN FRANCISCO
DAILY NEWS SPORTS WRITERS

Sunday, March 30th 2008, 8:57 PM

SAN FRANCISCO - Three of the athletes who worked with Victor Conte at BALCO - boxer Shane Mosley and sprinters Kelli White and Tim Montgomery - have denied at one time or another that they knew they were taking banned or illegal substances provided by Conte.

But Conte, who says he will discuss all three in his new book, "BALCO: The Straight dope on Steroids, Barry Bonds, Marion Jones and What We Can Do To Save Sports," says they "all knew precisely what they were using."

"I taught them how to use substances, including "the clear," and inject themselves with EPO. I watched them inject themselves in front of me."

"The clear" was an undetectable steroid applied by placing drops of the yellowish liquid under the tongue with a needleless syringe; EPO is a banned performance-enhancer that is injected by needle.

Mosley, who is scheduled to fight welterweight Zab Judah on May 31 at Mandalay Bay in Las Vegas, told the Daily News in September that he inadvertently took two designer steroids - "the cream" and "the clear" - before his championship fight against Oscar De La Hoya in 2003 after he says he was misled by Conte, who disputed the claims then in an e-mail response. SI.com first reported that investigator Jeff Novitzky had said at an anti-doping conference in Colorado Springs that Mosley had used the substances.

"Those are simply lies," Conte told The News again Sunday of Mosley's statements. "It was all explained up front and there was no deception."

Conte says he has detailed doping calendars of all three athletes, including Mosley's. "I have every day and every dose," he says.

White has claimed that Conte told her he was giving her flaxseed oil and Montgomery told the BALCO grand jury that Conte assured him "the clear" was not an illegal steroid.

"Not true," Conte says.



ESPN.com: Boxing

[Print without images]



Wednesday, April 9, 2008

Report: Conte says Mosley was aware what he was using

ESPN.com news services

Boxer and former BALCO client Shane Mosley knew he was being given steroids, Victor Conte told the Los Angeles Times in response to a slander lawsuit Mosley filed earlier this month.

Last week, Mosley filed suit after Conte said he is writing a book to "set the record straight" on what Mosley knew about the doping program he undertook for his 2003 title fight with Oscar De La Hoya. Mosley, whose suit claims Conte made allegedly false comments to boost book sales, has acknowledged using BALCO's products. But he said he unwittingly used steroids and didn't know what he was taking.

Not true, Conte said, according to the Times.

"I didn't deceive him; he knew what he was taking and I told him that before he took it," Conte said Tuesday, according to the report.

"He was increasing the percentage of red blood cells with every breath, increasing the number of oxygen molecules to his muscle tissue, which means instead of having shortness of breath during a long workout, your stamina is enhanced," Conte said, according to the report. "We had talked about the benefits of oxygen uptake. □ We talked about the benefit of EPO being at the end of the fight, with his extra stamina and endurance."

Conte said his calendars show Mosley was taking EPO through Sept. 8, 2003, and that he took eight doses of "the clear," and seven doses of "the cream" until Aug. 31, 2003, according to the report. Thirteen days later, Mosley outpointed De La Hoya to win his third world title belt by unanimous decision.

"Yes, I watched that fight, and I remember him winning the late rounds and thinking, 'That was an edge,'" Conte said, according to the newspaper. "Shane deserves all the credit for his victory, but did I feel a part of it? In a certain regard, I guess I did."

Mosley, who is in training for a May 31 fight against Zab Judah, was unavailable for comment Tuesday, the Times reported. But his wife and manager, Jin, told the newspaper "Shane never had a doping calendar or never knowingly took steroids. He was not taking anything labeled 'steroid.'"

And Mosley's attorney, Judd Burstein, said the calendars "don't prove anything," according to the report.

"Shane didn't know what he was taking, and that's completely believable to anyone who knows Shane. He wouldn't know a hematocrit from a chromatic print," Burstein said, according to the newspaper.

De La Hoya, whose Golden Boy Promotions company now promotes Mosley, was not available for comment Tuesday, the Times reported.

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**W.E.K. SECURITY & POLYGRAPHS
284 COLONY STREET
WEST HEMPSTEAD, NEW YORK 11552**

Judd Burstein
Attorney @ Law
1790 Broadway
New York, New York 10019

Mr. Burstein:

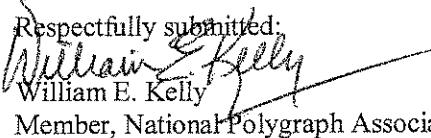
October 6,2003

On October 2,2003 I met with you and your client, Mr. Shane Mosley. You explained to me that there are some allegations concerning Mr. Mosley and the use of steroids. You advised me that Mr. Mosley is a professional fighter and recently fought against Oscar DeLaHoya. Although a drug test subsequent to the fight was negative concerning illegal substances in Mr. Mosley's body, Mr. Mosley wanted to take a polygraph concerning his belief that he never, knowingly, took any illegal substances.

I interviewed Mr. Mosley, explained the polygraph to him and reviewed the test questions with him prior to the test. I asked Mr. Mosley the following relevant questions during the test:

- 1) Did you visit Balco Labs only once?
Answer: Yes
- 2) Did you tell your conditioning coach, Darryl, that you wanted only legal supplements used?
Answer: Yes
- 3) Did you tell Victor Conte that you only wanted legal supplements?
Answer: Yes
- 4) As of the date of the DeLaHoya bout in September, 2003 did you believe you had taken any illegal substances?
Answer: No

It is the opinion of the polygrapher, based on the polygraph charts, that no deception is indicated when Mr. Mosley answered these questions.

Respectfully submitted:

William E. Kelly
Member, National Polygraph Association

